



Ninety-Ninth Legislature - First Session - 2005
Committee Statement
LB 92

Hearing Date: January 25, 2005

Committee On: Urban Affairs

Introducer(s): (Byars, Friend)

Title: Change provisions relating to vacation of streets and alleys

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Friend, Connealy, Combs, Cornett, Janssen, Landis, and Schimek
	No	
	Present, not voting	
	Absent	

Proponents:

Senator Dennis Byars, Introducer
Dennis Schuster
Michael Nolan
Gary Krumland
Sandra K. Powell
Mr. Davis

Representing:

City of Beatrice
City of Norfolk
League of NE Municipalities
City of Springfield
City of Nebraska City

Opponents:

None

Representing:

Neutral:

Douglas R Clark

Representing:

Metropolitan Utilities Dist.

Summary of purpose and/or changes: This bill deals with the disposition of land when streets or alleys are vacated by first and second class cities and villages. It is applicable only to first and second class cities and villages.

An earlier form of this legislation was introduced in the 2004 legislative session as LB 842. It was heard by the Urban Affairs Committee and advanced to General File without amendment, however it never received consideration by the full Legislature and died at the end of the session.

Last year's legislation differed from the current bill in that it only applied to first class cities and did not provide the right for the city or village to reserve an easement through the vacated property.

LB 92 proposes to change the manner in which property which was formerly a street or alley is disposed of following its vacation by a first class city, a second class city, or village. Two sections of statutes are amended, Sec. 16-611 (which governs first class cities) and Sec. 17-558 (which governs second class cities and villages). The changes made in both statutes are substantively identical.

Under current law, such vacated property is automatically vested to the owners of the abutting property, one-half to each side.

This legislation broadens the options available, by first of all by authorizing the municipalities (at their discretion) to retain title to the land in the city and then authorizing the city to dispose of the property by sale, conveyance, exchange, or lease upon terms and conditions determined by the city to be in its best interest.

It should be noted first, that the city has the option of proceeding in the manner specified under current law (with the automatic vesting in the neighboring owners) and second, that if the city retains title, the conveyance or disposition of the vacated property is *not* restricted to abutting landowners.

Finally, the legislation provides (explicitly) that the city or village may reserve an easement through the vacated property.

Explanation of amendments, if any: The committee determined that it would be appropriate to adopt a more detailed provision dealing with easements to insure that they were protected following the vacation of the street or alley. Having considered the issue previously in the context of easements in vacated streets in metropolitan class cities (LB 97 in 2003), the committee adopted the language used in that regard describing the nature of retained easement rights in the vacated street or alley and adapted it for the context of first and second class cities and villages. The amendment deletes the current reservation language and inserts the new terms. It then adds language preserving any city, utility and cable television easements in the vacated right of way existing at the time of the vacation and preserving the right for the entities possessing the easements to come onto the property for the purpose of inspecting, constructing, maintaining or reconstructing the lines present on that property

Senator Mike Friend, Chairperson